

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



May 23, 2003

ALL COUNTY LETTER NO. 03-21

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☒ Federal Law or Regulation Change
- ☐ Court Order
- ☐ Clarification Requested by One or More Counties
- ☒ Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS
ALL CalWORKs PROGRAM COORDINATORS
ALL WELFARE-TO-WORK COORDINATORS

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO
KIDS (CalWORKs) REVISED REGULATIONS FOR 60-MONTH
TIME LIMIT PROCEDURES

REFERENCE: WELFARE AND INSTITUTIONS CODE (WIC) SECTIONS 11454,
11454.5 AND 11495.1; ALL COUNTY LETTERS (ACL) 97-65, 97-
68, 98-09, 98-44, 99-90 AND ERRATA, 00-48, 01-03, 01-66, 02-33,
02-66, 02-70, 02-91 AND ALL COUNTY INFORMATION NOTICES
(ACIN) I-52-99, I-47-02, I-58-02, I-90-02, AND I-95-02

This letter summarizes for county welfare departments (CWDs) the final changes to the CalWORKs 60-month time limit regulations since the adoption of the regulations on March 1, 2002. Testimony was received after public hearing and as a result of the comments received we amended the regulations. The final regulations were filed by the Secretary of State and became effective April 9, 2003. The final regulations are attached and detail the procedures for informing recipients of their time on aid.

Background

Regulations for the CalWORKs 60-month time limit procedures were developed to ensure that recipients are informed on a timely basis of the number of months that count toward the 60-month time limit and are provided the process by which they can claim the time limit exemptions. Counties are required to notify recipients of their time-on-aid information at specific intervals to ensure that recipients know of the approach of their time limits in order to prepare for the resulting grant reduction, and to make certain they are provided exemptions to which they are entitled.

Summary of the Changes to the Regulations

These regulations make the following clarifications and additions to existing regulations:

- Section 40-107.14 – adds provision to instruct counties to provide the description of the 60-month time limit requirements at the time an individual applies for aid, at the time the recipient's eligibility for aid is redetermined, and any other time a notice of action establishing time on aid is sent.
- Sections 40-107.141 through .142 – add provisions to instruct counties to inform recipients of their time on aid at the time aid is authorized and at redetermination.
- Section 40-107.143 – adds provision to allow counties the option to inform recipients of their time on aid by a notice of action or an informing notice at the 54th month on aid.
- Section 40-107.144 - adds provision to specify that counties are to inform recipients of their time on aid by a notice of action during the period of the recipient's 54th through 58th months on aid.
- Section 40-107.145 – adds provision to limit the number of additional time-on-aid notices under certain circumstances that include: within three calendar months from a previous notice of action, and once an exemption for individuals who are 60 years of age or older is established.
- Section 40-107.146 – adds provision to instruct counties to document the recipient's request for time limit information and provide the recipient a written notice with the time limit information.
- Section 40-107.147 – adds provision to instruct counties to inform recipients by notice of action at the 60th month on aid, including notification of the reduction of the grant due to the expiration of the CalWORKs 60-month time limit or notification that the recipient will continue to receive aid beyond the 60-month time limit based upon criteria for exceptions.
- Section 40-107.148 – adds provision to instruct counties to inform an adult who has reached the 60-month time limit and whose children remain on aid as a safety net case, by notice of action when child support or overpayment recoupment reimburses any month(s) on aid.
- Section 40-107.149 – adds provision to instruct counties to inform an adult who has reached the 60-month time limit and whose children are no longer aided, of his/her time limit information at application and upon request.
- Section 40-107.153 – adds provision to instruct counties to respond to requests from other states for former CalWORKs recipients' number of months funded by TANF, with only the number of months that count toward the TANF 60-month time limit and to

exclude months that are exempt from the federal TANF 60-month time limit and months that do not meet the federal definition of “assistance.”

- Section 42-302.11 – adds provision to clarify that when an adult has reached the CalWORKs 60-month time limit, additional months may be provided to that adult when all parents, aided stepparents, and/or caretaker relatives residing in the home of the aided child(ren) meet any of the exception criteria. This can occur at the point the adult reaches the CalWORKs 60-month time limit or any time thereafter.
- Section 42-302.114 (b) (1) (A) – adds language to further define and clarify the phrase, “fully participating” in welfare-to-work (WTW).
- Section 42-302.114 (b) (2) (B) – deletes “incapable of work” criteria that overlap existing regulations governing exemptions from WTW participation because a WTW exemption would stop the 60-month time clock and the recipient would not reach her/his time limit while exempt from WTW participation.
- Section 42-302.114 (b) (2) (B) (1) – adds language to define the phrase “significant modification” of WTW activities.
- Section 42-302.2 - adds provision to clarify that any overpayment month, defined as an entire month of aid in which the recipient was not entitled to the cash aid, that is fully repaid does not count for purposes of the 60-month time limit.
- Section 42-302.21(g) – deletes the requirement to credit an individual’s CalWORKs 60-month time limit with the months of aid that were fully reimbursed in another state as a result of child support collection. This subsection was repealed because the exemption as set forth in Welfare and Institutions Code Section 11454.5 (b) (3) is only applicable to aid received in the CalWORKs program and not to aid received in other states.
- Section 42-302.21 (g) (1) (A) through (G) – adds provisions to clarify the process to exempt months of aid by reimbursement through child support collection.

Please be advised that section 42-302.21 (g) (1) (C) requires that the exempt month due to child support recoupment shall also be applied toward the CalWORKs 60-month time limits of aided stepparents. Counties should apply this exemption to aided stepparents as of January 1, 1998. This detail was not included in ACL 02-74, dated October 1, 2002, which provided instructions for the child support time limit exemption. The change was made as a result of public testimony and after the release of the ACL.

- Section 42-302.21 (j) – adds language to clarify that a cash grant is not sent to the recipient if the grant amount is less than \$10.
- Section 42-302.3 (a) – adds provision to clarify that the county shall not require a request form for an exemption/exception by the applicant or recipient if all the required information to grant the exemption/exception is available to the county.

Counties should review requests for exemptions to ensure that they meet the necessary criteria as specified in MPP Sections 42-712.41 through 42-712.49, and that the identified effective date of the exemption is appropriate. This review process is particularly important when the onset date is significantly earlier than the date on which the request is received.

- Section 42-302.3 (b) – adds provision to clarify that exemptions such as 60 years of age or older, aid reimbursed by child support collected, grant amounts less than ten dollars, and only receiving supportive services do not require a written request form.
- Section 42-302.32 – adds provision to specify that the county must inform the individual of the determination of the exemption/exception within 15 days from the date of a completed request.
- Section 42-302.34 – adds provision to clarify that the determination notice shall only state the reason for the exemption/exception if the exemption/exception is denied.
- Sections 44-352.113 and 44 -352.123 – adds provisions to clarify that child support payments are excluded when calculating an overpayment.

Contacts

If you have additional questions, please contact the following individuals for the subject areas listed:

- Sixty-month time limit – Charissa S. Miguelino at (916) 657-3665.
- Exception for individuals who are unable to maintain employment or participate – Randy Shiroy at (916) 654-1527.

Sincerely,

Original signed by
Bruce Wagstaff on 5/23/03

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachment

c: CWDA
CSAC

1. Amend Section 40-107 to read:
2. Post Hearing: Amend Section 40-107 to read:
3. Post 15-Day Renote: Amend Section 40-107 to read:

40-107 COUNTY RESPONSIBILITY

40-107

.1 Assisting the Applicant (Continued)

.14 ~~At the time an individual applies for aid or at the time a recipient's eligibility for aid is determined, t~~The CWD shall provide the individual, in writing and orally as necessary, a description of the 60-month time limit requirements, including the exemptions from the time limit, as provided in Sections 42-302.11 and 42-302.21 and the process by which recipients can claim the exemptions, as provided in MPP Section 42-302.3. The description of the 60-month time limit requirements shall be provided at the time an individual applies for aid, at the time a recipient's eligibility for aid is redetermined, and any other time a notice of action establishing time on aid pursuant to this section is provided. In addition, counties are required to provide information on the number of months an applicant, recipient, or former recipient received aid as follows:

.141 The applicant shall be informed, by notice of action, at the time that eligibility for aid is authorized, ~~of the cumulative number of countable months that the recipient received aid, the specific months that were exempt from the 60-month time limit and the remaining number of months that the recipient may be eligible to receive aid if the applicant received aid in California or any other state(s) on or after January 1, 1998.~~ The notice shall include:

- (a) The number of months the individual received aid as reported on the most recent notice of action, if any.
- (b) The cumulative number of countable months that the individual received aid and the specific exempt months since the last notice of action, or the beginning of aid if there has been no prior notice of action.
- (c) The remaining number of months that the individual may be eligible to receive aid. (See MPP Section 42-302.2 for definition of countable months.)

.142 The recipient shall be informed, by a notice of action, at redetermination of aid. The notice shall include: ~~information as required in MPP Section 40-107.141.~~

- (a) ~~The number of months the recipient received aid as reported on the most recent notice of action;~~
- (b) ~~The cumulative number of countable months that the recipient received aid and the specific exempt months since the last notice of action;~~
- (c) ~~The remaining number of months that the recipient may be eligible to receive aid. (See MPP Section 42-302.2 for definition of countable months.)~~

.143 The recipient shall be informed, in writing, at the 54th countable month on aid by using one of the following two methods:

- (a) A notice of action which meets the requirements in MPP Section 40-107.141; or
- (b) A notice that informs the recipient of the cumulative number of countable months that the recipient received aid and the remaining number of months that the recipient may be eligible to receive aid. (See MPP Section 42-302.2 for definition of countable months.)

.144 Each recipient shall be informed by a notice of action provided in one month during the period of the recipient's 54th through 58th countable months on aid.

- (a) A notice of action pursuant to MPP Section 40-107.141, .142, or .143(a) satisfies this requirement.
- (b) Once the notice of action required in MPP Section 40-107.144 is sent, no further notice of action, pursuant to MPP Sections 40-107.141 through .144, shall be required until a total of six exempt months have passed.

.145 No notice pursuant to MPP Sections 40-107.141 through .146 need be sent under the following circumstances:

- (a) Within 3 calendar months from a previous notice of action, pursuant to MPP Sections 40-107.141 through 40-107.144, was provided.
- (b) Once the exemption for individuals who are 60 years of age or older, as provided in MPP Section 40-302.21(e), is established.

.146 4 Upon a verbal or written request for time limit information, a current or former recipient shall be informed, in writing, within 30 calendar days from the date of receipt of the request. ~~The notice shall include:~~ The

county shall document the request and provide the recipient with a written notice that will include:

- (a) The cumulative number of countable months that the recipient received aid,
- (b) The specific months that were exempt from the 60-month time limit since the most recent notification (pursuant to MPP Sections 40-107.141, ~~and~~ 40-107.142, 40-107.143(a) or 40-107.144),
- (c) The remaining number of months that the recipient may be eligible to receive aid.

.147 The recipient shall be informed by a notice of action at the 60th countable month on aid. The notice shall include:

- (a) Information in accordance with Section 40-107.141.
- (b) Notification of the reduction in the grant amount due to the expiration of the CalWORKs 60-month time limit or notification that the recipient will continue to receive aid beyond the 60-month time limit based upon the criteria for exceptions as provided in MPP Section 42-302.11.

.148 After the 60-month time limit notice of action, an adult who has reached the CalWORKs 60-month time limit and whose children remain on aid, shall be informed by notice of action pursuant to MPP Section 40-107.142 when child support or overpayment recoupment reimburses any month(s) on aid. (See MPP Section 42-302.21(g) for reimbursement of aid through child support recoupment and MPP Section 42-302.2 for overpayment months that are repaid.)

.149 After the 60-month time limit notice of action, an adult who has reached the CalWORKs 60-month time limit and whose children are no longer aided, shall be informed pursuant to MPP Sections 40-107.141 and .146.

.15 When a former CalWORKs recipient applies for aid in another state and the other state requests information on the number of months of assistance provided by Temporary Assistance for Needy Families (TANF) funds, the county where the aid was last received shall promptly respond to the other state's request in writing.

.151 The county shall also send a notice of action to the former CalWORKs recipient at her/his new address in the other state. The notice of action shall include information on the number of months of TANF-funded assistance that was provided to the other state.

HANDBOOK BEGINS HERE

- .152 Months of assistance provided by TANF funds shall be reported to the other state. Assistance provided by the California state-only programs, the Separate State Program for Two-Parent Families and the Segregated State Program for Legal Immigrants, is not subject to the Federal TANF 60-month time limit. Individuals who received aid provided by the state-only programs do not accrue months of assistance toward the federal TANF 60-month time limit and, therefore, the months of aid shall not be reported to the other state.
- .153 Months that are exempt from the federal TANF 60-month time limit and months that are excluded from the federal definition of assistance and the federal regulations shall not be included in the cumulative number of months of assistance that is reported to the other state.

HANDBOOK ENDS HERE

- .16 (Continued)
- .17 (Continued)
- .18 (Continued)
- .19 (Continued)

Authority cited: Sections 10553, 10554 and 10604 Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11268, 11324.8(a) and (f)(1), AB 312, Chapter 1568, Statutes of 1990, 11454(b) and (e), 11495.1, 11500(b), 11502(b), and 11511(a), Welfare and Institutions Code; 42 USC Sections 608(a)(7), 682(c)(2), (3), (4) and (5); 45 CFR 205.42(d)(2)(v)(A) and (B) as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808; 45 CFR 205.52(a)(1) and (2); 45 CFR 205.55; 45 CFR 250.20; 45 CFR 250.40(a), (b), (c)(1) and (2); 45 CFR 255.1; 45 CFR 256.1(b), and California Department of Health Services Manual Letter 77-1.

Amend Section 42-301 to read:

42-301 GENERAL TIME LIMIT REQUIREMENTS FOR ADULTS 42-301
(Continued)

.2 Ineligible Due to Time Limits Adults who are ineligible for aid based on the 60-month time limit provisions, specified in Section 42-302, shall be removed from the AU. See MPP Sections 44-133.8 and 82-833.1 for additional regulations pertaining to timed-out adults.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11450 and 11454(a), (b) and (c), Welfare and Institutions Code.

1. Amend Section 42-302 to read:
2. Post Hearing: Amend Section 42-302 to read:
3. Post 15-Day Renotice: Amend Section 42-302 to read:

42-302 60-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS 42-302

.1 60-Month Time Limit (Continued)

- .11 Exceptions When an individual has been aided as an adult for 60 months, ~~aid may continue for~~ additional months of aid may be provided to that adult when all parents, aided stepparents, and/or caretaker relatives residing in the home of the aided child(ren) meet any of the following conditions: (Continued)

.114 Unable to Maintain Employment or Participate

~~Upon reaching the 60-month time limit, t~~The county determines that the individual is not able to maintain employment or to participate in welfare-to-work activities, based on a current assessment of the individual as specified in MPP Section 42-302.114(b), and the county's finding that the individual has a history of participation and full cooperation in welfare-to-work activities.

(a) ~~The county's determination that the~~ An individual shall be found to have ~~has~~ a history of participation and full cooperation in welfare-to-work activities if the individual meets ~~shall be based on either of the following criteria in Section 42-302.114(a)(1) or (a)(2) that may apply:~~

(1) The recipient has not failed to meet satisfactory participation, attendance, and progress requirements, without good cause, as evidenced by the absence of an instance or instances of noncompliance that resulted in a welfare-to-work financial sanction during the time an individual was a mandatory welfare-to-work participant.

(A) For purposes of this section, a sanction received while the individual was a volunteer in the CalWORKs welfare-to-work program pursuant to MPP Sections 42-712.51 or 42-712.52, or an aid recipient in another state, shall not be considered a welfare-to-work sanction.

(2) The recipient has an instance or instances of noncompliance that resulted in a welfare-to-work sanction or sanctions; however, the individual has also maintained to

~~the best of his/her ability,~~ a sustained period or periods of welfare-to-work participation despite the presence of an significant impairment or combination of impairments, as determined pursuant to MPP Sections 42-711.56, 42-711.57, or 42-711.58, ~~or 42-712.442~~ including domestic abuse, as determined pursuant to MPP Section 42-715.

- (A) For purposes of this section, six months, or two or more periods of welfare-to-work participation within a consecutive 24-month period, including participation in orientation/appraisal, job search, assessment/evaluations, and post-assessment activities, that equal total six months or more shall be considered a sustained period.
 - (B) For purposes of this section, an significant impairment is one not so severe that ~~does not meet it meets~~ the welfare-to-work exemption or waiver requirements in MPP Sections 42-712.44 or 42-715, respectively, but nevertheless limits an individual's ability to perform the physical and/or mental functions necessary to maintain employment or participate in welfare-to-work activities.
- (b) Upon the county's determination that the individual has a history of participation and full cooperation in welfare-to-work, the county shall assess the individual's current ability to maintain employment or participate in welfare-to-work activities.
- (1) For purposes of this section, an individual who is fully participating in her/his welfare-to-work assignment upon reaching the 60-month time limit shall be considered ~~capable of work~~ able to maintain employment or participation unless the individual's required ~~hours of participation~~ or welfare-to-work activity ~~have~~ has been modified in accordance with MPP Section 42-302.114(b)(2)(~~B~~C).
 - (A) For purposes of this section an individual is fully participating if she/he is meeting their 32 or 35 hours of participation requirement or successfully participating in unsubsidized employment and/or other welfare-to-work activities for the number of hours an appropriate activity is reasonably available.

HANDBOOK BEGINS HERE

Example of an individual who is able to maintain employment and is participating for less than the required 32 or 35 hours per week: Due to a business slowdown, a recipient, who has received 58 countable months of aid, had her hours of unsubsidized employment reduced from 35 hours to 20 hours per week. The recipient has reached her 24-month time limit and must participate in community service. However, an appropriate community service placement does not become available before the recipient, whose job as a Retail Clothing Sales Clerk is consistent with her Welfare-to-Work participation and employment goal, reaches her 60-month time limit. Although the recipient is not participating for the required number of hours, she is not subject to a sanction and is considered able to maintain employment.

Example of an individual who may be considered incapable of work and is participating for the required 32 or 35 hours per week through a modification of her/his welfare-to-work activities:

A recipient has a documented physical impairment, chronic back pain following surgical treatment for a back injury, and history of substance abuse. Upon reaching her 60-month time limit, the recipient's welfare-to-work participation consists of substance abuse treatment, pain management classes, and community service as a clerical assistant.

HANDBOOK ENDS HERE

- (2) The county's determination that an individual is incapable of maintaining employment or participating in welfare-to-work activities shall be based upon, but not limited to, any ~~one~~ of the following criteria:
 - (A) The individual has a documented impairment or combination of impairments, as specified in MPP Section 42-302.114(a)(2), that ~~the county has determined~~ is of such severity that the individual is incapable of ~~severely limits the individual's ability to successfully maintaining employment or participate~~ participation in welfare-to-work activities for 20 or more hours per week.

(B) ~~The individual has a documented impairment or combination of impairments, as specified in MPP Section 42-302.114(a)(2), or has been a victim of domestic abuse for whom the county has waived work requirements, pursuant to MPP Section 42-715, that has resulted in a failure or repeated failure to participate or progress in her/his welfare-to-work activity.~~

(BE) ~~In accordance with MPP Section 42-302.114(a)(2),~~ The individual currently has a documented impairment as specified in MPP Section 42-302.114(a)(2), and has maintained is maintaining her/his participation in welfare-to-work activities only through a significant modification of the hours of participation requirement and/or individual's welfare-to-work activities.

1. For purposes of this section, a significant modification includes but is not limited to: mental health counseling; substance abuse treatment; domestic abuse services; a supported work environment, which is characterized by close supervision, graduated performance expectations, and peer support; or additional time to complete an activity.

(CE) The individual has a documented impairment or combination of impairments, as specified in MPP Section 42-302.114(a)(2), and due to local labor market conditions limit the availability there is a lack of employers that could reasonably accommodate the individual's physical and/or mental limitations.

(c) Individuals that are determined to be incapable of maintaining employment shall have their condition reviewed at least once every 12 months, unless the disabling condition or conditions is expected to improve at an earlier date. For individuals with a learning ~~impairment~~ disability, which was documented pursuant to MPP Section 42-711.58, the county shall review the individual's employment status and the impact of any newly-developed coping skills, strategies, and accommodations on the individual's ability to maintain employment, ability to cope with his/her impairment and shall not require a reevaluation of the learning disability ~~impairment, which was documented pursuant to MPP Section 42-711.58.~~ (Continued)

.2 Counting the 60-Month Limit (Continued)

Any month or partial month in which an adult is included in an AU that receives a cash grant, including Reduced Income Supplemental Payments (Section 44-400) and Special Needs, (Section 44-211), shall count for the purposes of the 60-month time limit, except as provided in Sections 42-302.21 (Exempt months) and 42-302.22 (Diversion Count).

Any overpayment month, (an entire month of aid in which the recipient was not entitled to cash aid), that is fully repaid shall not count for the purposes of the 60-month time limit.

.21 Exempt Months (Continued)

(g) Aid is Reimbursed

The cash aid is fully reimbursed as a result of child support collection whether collected in that month or any subsequent month. ~~This includes child support reimbursements for months of aid from other states.~~

~~(1) Other States~~

~~When the individual's 60-month time limit has been reached and the individual declares that months of aid have been fully reimbursed in another state as a result of child support collection, the county shall verify this information and credit the month(s) for California's 60-month time limit.~~

(1) Process for Reimbursement of Months of Aid for Exemption

All assigned child support payments, including collections in a current month, arrears, and lump sum payments collected to reimburse aid in California from January 1998 forward, shall be applied cumulatively to repay aid payments in the following order:

- (A) The cumulative child support recoupment will be applied to each month of aid beginning with the earliest unreimbursed month of aid, on or after January 1998, and moving forward as each month of aid is fully reimbursed.
- (B) Recoupment, as provided by the local child support agency, is all child support that has been assigned and collected to repay aid. Beginning October 1998, this includes the disregard payments pursuant to MPP Section 12-425(c)(1)(B).
- (C) Each month of aid that is fully reimbursed by child support shall be exempt and not counted toward the CalWORKs 60-month time limit of parents, aided stepparents, and/or aided caretaker relatives residing in the home of the child(ren.)
- (D) The child support recoupment shall be applied to all months of aid whether or not the month had been previously exempted for any reason, including any month(s) exempt because the individual was unaided for any reason, including a sanction.
- (E) The child support recoupment will be reviewed to determine if the cumulative amount is sufficient to reimburse and exempt a monthly grant amount. Any child support that remains but is insufficient to fully reimburse a monthly grant, whether collected in the current month or for a previous period of time, shall be carried forward and used for any subsequent unreimbursed month(s) of aid.

(F) The recipient shall be informed of the exempt months due to child support recoupment pursuant to MPP Sections 40-107.141 through .149.

(G) Information regarding the balance of child support recoupment and the number of months exempt due to the child support recoupment must be reported to any subsequent county(ies) to continue reimbursement of the subsequent months of aid.

(h) Living in Indian Country (Continued)

(1) Counties shall obtain the required information on unemployment rates through the governing body of each tribal land. (Continued)

(j) Grant Amounts Less Than \$10 Or Less The recipient does not receive a cash aid payment for the month because the grant amount is less than \$10 or less. (Continued)

.3 Requesting Exemptions/Exceptions An applicant or A a recipient can request an exemption/exception verbally or in writing. When a recipient states that s/he meets a condition that qualifies as an exemption or exception to the 18- or 24- and/or 60-month time limits, as specified in MPP Sections 42-712 and 42-302.21 or an exception to the 60-month time limit as specified in and 42-302.11, the county shall document the request and provide the recipient with an exemption/exception request form, if necessary to complete the request.

(a) A completed exemption/exception request by the applicant/recipient can be a verbal request if all required information to make a determination on the request is available to the county.

(b) Exemptions/exceptions that do not require a written request include, but are not limited to, 60 years of age or older, aid reimbursed by child support collected, grant amounts less than \$10, and receiving only supportive services.

- .31 Exemption/ Exception Request Form
- The form to request an exemption or exception shall include, but is not limited to, the following:
- (a) A description of the exemptions to the CalWORKs 18- or 24-month time limit, provided in MPP Section 42-712, the 60-month time limit, provided in MPP Section 42-302.21, and a description of the 60-month time limit exceptions, provided in MPP Section 42-302.11.
 - (b) A statement that the individual may need to provide documentation to substantiate some exemptions/exceptions.
 - (c) A statement ~~that~~ of exemptions from the time limit for aid reimbursed by child support collected, grant amounts of \$10 or less, and receiving only supportive services that do not require a ~~formal written~~ request.
 - (d) A statement that the individual will be informed, in writing, whether the exemption/exception is granted or not and the reason if the exemption/exception is denied.
 - (e) A statement that the individual may request a State hearing to appeal a denial of an exemption/exception request.
- .32 Exemption/Exception Determination
- The county shall inform the individual, in writing, of the exemption/exception determination ~~within no later than~~ 15 calendar days from the date of receipt of a verbal or written completed request for an exemption/exception pursuant to Section 42-302.3. The specified response time ~~limit~~ may be exceeded in situations where completion of the determination is delayed because of circumstances beyond the control of the county, in which instances the case record must specify the cause for delay. These instances include:
- (a) Inability on the part of the recipient to provide the necessary verification.
 - (b) Delay on the part of an examining physician to provide the necessary information.

- | | | |
|-----|--------------------------------------|--|
| .33 | Documentation of Exemption/Exception | The county shall first research all available and relevant case records before requesting additional verification from the recipient. <u>Pursuant to MPP Section 40-107.1, the county shall assist the applicant/recipient in obtaining the necessary records to verify the exemption/exception.</u> |
| .34 | Determination Notice | <p>The notice of action approving or denying a request for an exemption or exception shall include, but is not limited to, the following: <u>state whether the request was granted or denied and if denied, the reason for the denial.</u></p> <p style="margin-left: 40px;">(a) Notification that a month of aid is or is not exempt from the CalWORKs 60 month time limit based upon the criteria for exempt months provided in Section 42-302.21 and the reason the exemption is granted or denied; or</p> <p style="margin-left: 40px;">(b) Notification that the individual is or is not eligible to receive assistance beyond the 60 month time limit based upon the criteria for exceptions to the 60 month time limit provided in MPP Section 42-302.11, and the reason if the exception is granted or denied; and</p> <p style="margin-left: 40px;">(c) Notification of hearing rights.</p> |

Authority cited: Sections 10553, 10554, and 11369, Welfare and Institutions Code.

Reference: Sections 11266.5, 11454, 11454(e) and (e)(5), 11454.5, 11454.5(b) and (b)(4) and (5), and 11495.1, Welfare and Institutions Code, and 42 U.S.C. 608(a)(7)(A), (B) and (D).

Amend Section 44-133 to read:

44-133 TREATMENT OF INCOME -- CALWORKS 44-133
(Continued)

.5 Income and Needs in Cases in Which a Person is Excluded

.51 The income of a parent is considered when that parent is living in the home but is excluded from the AU. A parent's needs shall only be considered if he/she has income unless the parent is an ineligible alien parent as specified in Section 44-133.521. This section does not apply to parents excluded for the following reasons: a) a sanction; b) being a recipient of another aid program; or c) being a member of a different AU. See MPP Section 44-133.8 for treatment of income and needs of timed-out adults. Parents whose needs and income are considered include, but are not limited to: (Continued)

.8 Income and Needs of Timed-Out Adults.

Income and needs of adults living in the home who have been removed from the AU due to exceeding the 60-month CalWORKs time limits shall be treated as follows:

.81 Parents otherwise required to be in the AU. Net non-exempt income of timed-out parents who are otherwise required to be in the AU and living in the home shall be considered available to the AU. The needs of these parents shall not be considered when calculating the grant for the aided AU members.

.82 Non-parent caretaker relatives. Timed-out non-parent caretaker relatives living in the home are no longer eligible to be optional AU members, and their income and needs shall not be considered when calculating the grant for the aided AU members.

.83 Stepparents not required to be in the AU. Timed-out stepparents not required to be in the AU and living in the home are no longer eligible to be optional AU members, and their net non-exempt income and needs shall be treated in accordance with the provisions of MPP Sections 44-133.51 and 44-133.511.

.84 See MPP Sections 42-301 and 82.833.1 for regulations regarding timed-out adults. For timed-out adults whose income must be considered in the AU's grant computation, net nonexempt income shall be determined as specified at MPP Section 44-113.2.

Authority cited: Sections 10553, 10554, 10604, and 11369, Welfare and Institutions Code.

Reference: Sections 10063, 10553, 10554, 10604, 11008.14, 11254, 11320.15, 11450, 11452, 11453, 11486, 18937, 18940, and 11371, Welfare and Institutions Code; 45 CFR 205.50(a)(1)(i)(A); 45 CFR 233.20(a)(1)(i); 45 CFR

233.20(a)(3)(ii)(C), (a)(3)(vi)(B), (a)(3)(xiv), (a)(3)(xiv)(B), and (xviii); 45 CFR 233.50(A)(c); and 45 CFR 233.90(c)(2)(i); Family Support Administration Action Transmittal 91-15 (FSA-AT-91-15), dated April 23, 1991; and Omnibus Budget Reconciliation Act (OBRA) of 1990; U.S. Department of Health and Human Services Federal Action Transmittal No. FSA-AT-91-4 dated February 25, 1991; Simpson v. Hegstrom, 873 F.2d 1294 (1989); Ortega v. Anderson, Case No. 746632-0 (Alameda Superior Court) July 11, 1995; and Federal Register, Vol. 58, No. 182, pages 49218 - 20, dated September 22, 1993; 8 U.S.C. 1631; and 42 U.S.C. 602(a)(39).

1. Amend Section 44-352 to read:
2. Post hearing: Amend Section 44-352 to read:

44-352 OVERPAYMENT RECOUPMENT

44-352

.1 (Continued)

.11 (Continued)

.113 Calculate the total amount of aid actually paid to the recipient during the months excess property was held, subtracting any ~~support payments or other~~ money, excluding child support recoupment, received by the county which was credited against the aid payment for those months. (Continued)

.12 (Continued)

.123 Subtract any ~~support payments or other~~ money, excluding child support recoupment, received by the county and credited against the aid payment from the aid actually paid. (Continued)

Authority cited: Sections 10553, 10554, and 11004(h), Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11004, 11008 (Ch. 270, Stats 1997), 11017, 11155, 11155.1, 11155.2, 11257, 11450, 11451.5, 11452, 11453, and 11453.2, Welfare and Institutions Code; Darces v. Woods (1984) 35 Cal 3rd 871:201 Cal.Rptr. 807, and Ortega v. Anderson, Case No. 746632-0 (Alameda Superior Court) July 11, 1995.

Amend Section 82-832 to read:

82-832 EXCLUDED PERSONS

82-832

.1 (Continued)

.13 (Continued)

.132 (Continued)

(d) (Continued)

(e) (Continued)

(f) (Continued)

(g) (Continued)

(h) (Continued)

(i) (Continued)

(j) (Continued)

Authority cited: Sections 10553, 10554, 10604, 11270, and 11369, Welfare and Institutions Code.

Reference: 8 CFR 213a. and 299; 45 CFR 205.42(d)(2)(v)(A) and (B), as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808, 45 CFR 205.52, 45 CFR 206.10(a)(5)(i), 45 CFR 232.12(d), 45 CFR 233.10(a)(1)(i), (a)(1)(i)(B), and (a)(3), 45 CFR 233.20(a)(1)(i), (a)(3)(ii)(C) and (F), and (a)(3)(ix), 45 CFR 233.50, 45 CFR 233.51, 45 CFR 233.90(c), (c)(1), and (c)(2)(iv), 45 CFR 233.100(a)(5)(ii), 45 CFR 233.106, 45 CFR 240.22, and 45 CFR 250.34(a) and (c), and (c)(2); and Sections 11008.13, 11104, 11157, 11201(b), 11203, 11251.3, 11263.5, 11268, 11270, 11315, 11320.6(e), 11327.5(c), 11406.5, 11450, 11454, 11454.5, 11477, 11477.02, 11486, and 11486.5, Welfare and Institutions Code; and the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Section 115.

Adopt Section 82-833 to read:

82-833 TIMED-OUT ADULTS

82-833

- .1 A timed-out adult is an adult who has been removed from the AU due to exceeding the 60-month CalWORKs time limit specified in MPP Section 42-301. See MPP Section 44-133.8 for treatment of income and needs of timed-out adults.

Authority cited: Sections 10553, 10554, 11270, and 11369, Welfare and Institutions Code.

Reference: 45 CFR 205.42(d)(2)(v)(A) and (B), as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808, 45 CFR 205.52, 45 CFR 206.10(a)(5)(i), 45 CFR 232.12(d), 45 CFR 233.10(a)(1)(i), (a)(1)(i)(B), and (a)(3), 45 CFR 233.20(a)(1)(i), (a)(3)(ii)(C) and (F), and (a)(3)(ix), 45 CFR 233.50, 45 CFR 233.51, 45 CFR 233.90(c), (c)(1), and (c)(2)(iv), 45 CFR 233.100(a)(5)(ii), 45 CFR 233.106, 45 CFR 240.22, and 45 CFR 250.34(a) and (c), and (c)(2); and Sections 11008.13, 11104, 11157, 11201(b), 11203, 11251.3, 11263.5, 11268, 11270, 11315, 11320.6(e), 11327.5(c), 11406.5, 11450, 11454, 11454.5, 11477, 11477.02, 11486, and 11486.5, Welfare and Institutions Code; and the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Section 115.